

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES  
Attorney Docket No.: 14781US02

In the Application of: )  
Jeyhan Karaoguz, *et al.* )  
Serial No.: 10/672,654 )  
Filed September 26, 2003 )  
For: MEDIA EXCHANGE NETWORK )  
HAVING MEDIA PROCESSING )  
SYSTEMS AND PERSONAL )  
COMPUTERS WITH COMMON USER )  
INTERFACES )  
Examiner: LUONG, ALAN H. )  
Group Art Unit: 2427 )  
Confirmation No.: 8222 )  
Filed electronically on November 23, 2010

## APPEAL BRIEF

Mail Stop Appeal Brief – Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The Applicants respectfully request that the Board of Patent Appeals and Interferences reverse the final rejection of claims 1-7, 9-19, 21-31, and 33-40 of the present application. This Appeal Brief is timely because it is being filed within 2-months of the September 23, 2010 Notice of Appeal.

**REAL PARTY IN INTEREST**  
(37 C.F.R. § 41.37(c)(1)(i))

The real party in interest is Broadcom Corporation, a corporation organized under the laws of the state of California, having a place of business at 5300 California Avenue, Irvine, California 92617, which has acquired the entire right, title and interest in and to the invention, the application, and any and all patents to be obtained therefor, as set forth in the Assignment recorded at Reel 014255, Frame 0557 in the PTO Assignment Search room.

**RELATED APPEALS AND INTERFERENCES**  
(37 C.F.R. § 41.37(c)(1)(ii))

The following appeals may be related to, directly affect or be directly affected by, or have a bearing on the Board's decision in the present appeal:

- U.S. App. No. 10/675,467, filed September 30, 2003
- U.S. App. No. 10/675,057, filed September 30, 2003
- U.S. App. No. 10/675,358, filed September 30, 2003
- U.S. App. No. 10/675,491, filed September 30, 2003
- U.S. App. No. 10/675,436, filed September 30, 2003

As of the filing date of this Appeal Brief, the Applicants are not aware of any decisions that have been rendered with respect to any of the Appeals noted above.

**STATUS OF THE CLAIMS**  
(37 C.F.R. § 41.37(c)(1)(iii))

The present application includes claims 1-7, 9-19, 21-31, and 33-40, all of which stand rejected. The application originally included claims 1-24. Claims 25-40 were added in a March 5, 2009 Amendment. Claims 8, 20, and 32 were canceled without prejudice or disclaimer in a November 25, 2009 Amendment.

The Applicants identify claims 1-7, 9-19, 21-31, and 33-40 as the claims that are being appealed. The text of the claims involved in this Appeal is provided in the Claims Appendix.

**STATUS OF AMENDMENTS**  
(37 C.F.R. § 41.37(c)(1)(iv))

Subsequent to the final rejection mailed June 30, 2010, the Applicants filed a Notice of Appeal and Pre-Appeal Brief Request for Review.<sup>1</sup> No claims were amended subsequent to the June 30, 2010 Final Rejection.<sup>2</sup>

A mere sixteen (16) business days (excluding weekends and Columbus Day, which is a Federal holiday) after filing the Notice of Appeal and Pre-Appeal Brief Request for Review, the Applicants received a Notice of Panel Decision from Pre-Appeal Brief Review indicating that the application should proceed to the Board of Patent Appeals and Interferences.<sup>3</sup> **Notably**, the Panel consisted of **only** the Examiner, who signed the June 30, 2010 Final Office Action, and the Examiner's supervisor, who also signed the June 30, 2010 Final Office Action.<sup>4</sup> No one removed from prosecution of the application independently reviewed the Pre-Appeal Brief Request for Review.

Thus, the Applicants submit this Appeal Brief.

**SUMMARY OF CLAIMED SUBJECT MATTER**  
(37 C.F.R. § 41.37(c)(1)(v))

**Independent claim 1 recites the following:**

A system supporting the communication and consumption of media using a common user interface,<sup>5</sup> the system comprising:

a television display in a first<sup>6</sup> home;<sup>7</sup>

a first storage<sup>8</sup> for storing media, in the first home,<sup>9</sup> having a first associated network address,<sup>10</sup> the first storage communicatively coupled to the television display;<sup>11</sup>

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<sup>1</sup> See September 23, 2010 Notice of Appeal and Pre-Appeal Brief Request for Review.

<sup>2</sup> See *id.*

<sup>3</sup> See October 18, 2010 Notice of Panel Decision from Pre-Appeal Brief Review.

<sup>4</sup> See *id.*

<sup>5</sup> See present application at, for example, page 4, lines 2-18.

<sup>6</sup> See *id.* at, for example, page 12, lines 8-14, Figure 1, ref. 102.

<sup>7</sup> See *id.* at, for example, page 4, lines 4-5.

<sup>8</sup> See *id.* at, for example, page 13, 7-12.

a first graphical user interface<sup>12</sup> for display on the television display,<sup>13</sup> the first graphical user interface having at least one view comprising graphical representations of one or more media channels<sup>14</sup> supporting the communication and consumption of media, and having a first look and feel;<sup>15</sup>

a personal computer monitor<sup>16</sup> in a second<sup>17</sup> home;<sup>18</sup>

a second storage<sup>19</sup> for storing media, in the second home,<sup>20</sup> having a second associated network address,<sup>21</sup> the second storage communicatively coupled to the personal computer monitor;<sup>22</sup>

a second graphical user interface<sup>23</sup> for display on the personal computer monitor,<sup>24</sup> the second graphical user interface having at least one view comprising graphical representations of the one or more media channels<sup>25</sup> supporting the communication and consumption of media, and having a second look and feel;<sup>26</sup>

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<sup>9</sup> See *id.* at, for example, page 4, lines 5-6.

<sup>10</sup> See *id.* at, for example, page 4, line 6.

<sup>11</sup> See *id.* at, for example, page 4, lines 6-7.

<sup>12</sup> See *id.* at, for example, page 15, line 18 to page 18, line 10, page 18, line 11 to page 20, line 6, page 20, line 7 to page 24, line 9, page 28, line 6 to page 29, line 9, Figure 6, ref. 600, Figure 2A, ref. 200, Figure 2B, ref. 210, Figure 2C, ref. 220.

<sup>13</sup> See *id.* at, for example, page 4, lines 8-9.

<sup>14</sup> See *id.* at, for example, page 20, line 7 to page 24, line 9, Figure 2C, ref. 220.

<sup>15</sup> See *id.* at, for example, page 4, lines 9-10.

<sup>16</sup> See *id.* at, for example, page 12, lines 8-14, page 13, line 20 to page 14, line 2, Figure 1, ref. 103.

<sup>17</sup> See *id.* at, for example, page 12, lines 8-14, Figure 1, ref. 104.

<sup>18</sup> See *id.* at, for example, page 4, lines 10-12.

<sup>19</sup> See *id.* at, for example, page 13, 7-12.

<sup>20</sup> See *id.* at, for example, page 4, line 12.

<sup>21</sup> See *id.* at, for example, page 4, line 13.

<sup>22</sup> See *id.* at, for example, page 4, lines 13-15.

<sup>23</sup> See *id.* at, for example, page 15, line 18 to page 18, line 10, page 18, line 11 to page 20, line 6, page 20, line 7 to page 24, line 9, Figure 2A, ref. 200, Figure 2B, ref. 210, Figure 2C, ref. 220.

<sup>24</sup> See *id.* at, for example, page 4, lines 15-16.

<sup>25</sup> See *id.* at, for example, page 20, line 7 to page 24, line 9, Figure 2C, ref. 220.

<sup>26</sup> See *id.* at, for example, page 4, lines 16-18.

software resident in a first memory at the first home and a second memory at the second home,<sup>27</sup> the software enabling a user at the first home to construct, at the first home, the one or more media channels from user selected and scheduled media content,<sup>28</sup> the software also enabling closed and secure communication of the one or more media channels to members of a user group, in a peer to peer<sup>29</sup> manner, from the first home to the second home;<sup>30</sup>

software that receives a request that identifies one of the first and second associated network addresses,<sup>31</sup> and responds by identifying the other of the first and second associated network addresses<sup>32</sup> to support the communication via the communication network of media between the first storage and the second storage for consumption;<sup>33</sup> and

the first graphical user interface and the second graphical user interface being substantially the same graphical user interface,<sup>34</sup> the first look and feel and the second look and feel being substantially the same.<sup>35</sup>

**Independent claim 14 recites the following:**

A system supporting the communication and consumption of media using a common graphical user interface,<sup>36</sup> the system comprising:

a television display in a first<sup>37</sup> home;<sup>38</sup>

set top box circuitry,<sup>39</sup> in the first home, communicatively coupled to the television display;<sup>40</sup>

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<sup>27</sup> See *id.* at, for example, page 15, lines 3-4, page 20, lines 10-12, page 22, line 14 to page 24, line 10.

<sup>28</sup> See *id.* at, for example, page 22, line 18 to page 23, line 2, page 26, line 10 to page 27, line 6.

<sup>29</sup> See *id.* at, for example, page 25, lines 6-8, page 26, lines 18-22, Figure 4, ref. 413.

<sup>30</sup> See *id.* at, for example, page 24, lines 12-14.

<sup>31</sup> See *id.* at, for example, page 4, lines 19-21.

<sup>32</sup> See *id.* at, for example, page 4, line 21 to page 5, line 1.

<sup>33</sup> See *id.* at, for example, page 5, lines 1-4.

<sup>34</sup> See *id.* at, for example, page 5, lines 4-5.

<sup>35</sup> See *id.* at, for example, page 5, lines 5-6.

<sup>36</sup> See *id.* at, for example, page 6, line 18 to page 7, line 11.

<sup>37</sup> See *id.* at, for example, page 12, lines 8-14, Figure 1, ref. 102.

<sup>38</sup> See *id.* at, for example, page 6, line 20.

<sup>39</sup> See *id.* at, for example, page 14, lines 13-16, page 23, lines 5-15.

<sup>40</sup> See *id.* at, for example, page 6, lines 21-22.

a first graphical user interface<sup>41</sup> having at least one view comprising graphical representations of one or more media channels<sup>42</sup> for display on the television display,<sup>43</sup> and having a first look and feel;<sup>44</sup>

a personal computer<sup>45</sup> in a second<sup>46</sup> home;<sup>47</sup>

a second graphical user interface<sup>48</sup> having at least one view comprising graphical representations of the one or more media channels<sup>49</sup> for display on the personal computer,<sup>50</sup> and having a second look and feel;<sup>51</sup>

software resident in memory of the set top box circuitry at the first home and in memory of the personal computer at the second home,<sup>52</sup> the software enabling a user at the first home to construct, at the first home, the one or more media channels from user selected and scheduled media content,<sup>53</sup> the software also enabling closed and secure communication of the one or more media channels to members of a user group, in a peer to peer manner,<sup>54</sup> from the first home to the second home;<sup>55</sup> and

the first graphical user interface and the second graphical user interface being

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<sup>41</sup> See *id.* at, for example, page 15, line 18 to page 18, line 10, page 18, line 11 to page 20, line 6, page 20, line 7 to page 24, line 9, page 28, line 6 to page 29, line 9, Figure 6, ref. 600, Figure 2A, ref. 200, Figure 2B, ref. 210, Figure 2C, ref. 220.

<sup>42</sup> See *id.* at, for example, page 20, line 7 to page 24, line 9, Figure 2C, ref. 220.

<sup>43</sup> See *id.* at, for example, page 7, line 1.

<sup>44</sup> See *id.* at, for example, page 7, lines 1-2.

<sup>45</sup> See *id.* at, for example, page 12, lines 8-14, page 13, line 20 to page 14, line 2, Figure 1, ref. 103.

<sup>46</sup> See *id.* at, for example, page 12, lines 8-14, Figure 1, ref. 104.

<sup>47</sup> See *id.* at, for example, page 7, lines 2-3.

<sup>48</sup> See *id.* at, for example, page 15, line 18 to page 18, line 10, page 18, line 11 to page 20, line 6, page 20, line 7 to page 24, line 9, page 28, line 6 to page 29, line 9, Figure 6, ref. 600, Figure 2A, ref. 200, Figure 2B, ref. 210, Figure 2C, ref. 220.

<sup>49</sup> See *id.* at, for example, page 20, line 7 to page 24, line 9, Figure 2C, ref. 220.

<sup>50</sup> See *id.* at, for example, page 7, line 6.

<sup>51</sup> See *id.* at, for example, page 7, lines 4-5.

<sup>52</sup> See *id.* at, for example, page 15, lines 3-4, page 20, lines 10-12, page 22, line 14 to page 24, line 10.

<sup>53</sup> See *id.* at, for example, page 22, line 18 to page 23, line 2, page 26, line 10 to page 27, line 6.

<sup>54</sup> See *id.* at, for example, page 25, lines 6-8, page 26, lines 18-22, Figure 4, ref. 413.

<sup>55</sup> See *id.* at, for example, page 24, lines 12-14.

substantially the same user interface,<sup>56</sup> and the first look and feel and the second look and feel being substantially the same.<sup>57</sup>

**Independent claim 25 recites the following:**

One or more circuits for use in a system supporting the communication and consumption of media using a common user interface,<sup>58</sup> the one or more circuits comprising:

at least one processor,<sup>59</sup> in a first<sup>60</sup> home, operably coupled to a display device and to a first storage<sup>61</sup> for storing media in the first home,<sup>62</sup> the first storage having a first associated network address,<sup>63</sup> and communicatively coupled to a second storage<sup>64</sup> for storing media, in a second<sup>65</sup> home, the second storage having a second associated network address<sup>66</sup> and being communicatively coupled to a second display device in the second home,<sup>67</sup> the at least one processor operable to, at least:

cause display on the first display device of a first graphical user interface<sup>68</sup> having at least one view comprising graphical representations of one or more media channels<sup>69</sup> supporting the communication and consumption of media and having a first look and feel;<sup>70</sup>

enable a user, at the first home, to construct the one or more media channels, at the first home, from user selected and scheduled media content;<sup>71</sup>

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<sup>56</sup> See *id.* at, for example, page 7, lines 8-10.

<sup>57</sup> See *id.* at, for example, page 7, lines 10-11.

<sup>58</sup> See *id.* at, for example, page 4, line 2 to page 8, lines 18.

<sup>59</sup> See *id.* at, for example, Figure 1, refs 101, 103, 109, and/or 118.

<sup>60</sup> See *id.* at, for example, page 12, lines 8-14, Figure 1, ref. 102.

<sup>61</sup> See *id.* at, for example, page 13, 7-12.

<sup>62</sup> See *id.* at, for example, page 4, lines 5-6.

<sup>63</sup> See *id.* at, for example, page 4, line 6.

<sup>64</sup> See *id.* at, for example, page 13, 7-12.

<sup>65</sup> See *id.* at, for example, page 12, lines 8-14, Figure 1, ref. 104.

<sup>66</sup> See *id.* at, for example, page 4, line 13.

<sup>67</sup> See *id.* at, for example, page 4, lines 13-15.

<sup>68</sup> See *id.* at, for example, page 15, line 18 to page 18, line 10, page 18, line 11 to page 20, line 6, page 20, line 7 to page 24, line 9, page 28, line 6 to page 29, line 9, Figure 6, ref. 600, Figure 2A, ref. 200, Figure 2B, ref. 210, Figure 2C, ref. 220.

<sup>69</sup> See *id.* at, for example, page 20, line 7 to page 24, line 9, Figure 2C, ref. 220.

<sup>70</sup> See *id.* at, for example, page 4, lines 16-18.

<sup>71</sup> See *id.* at, for example, page 22, line 18 to page 23, line 2, page 26, line 10 to page 27, line 6.

communicate with software that receives a request that identifies one of the first and second associated network addresses,<sup>72</sup> and responds by identifying the other of the first and second associated network addresses<sup>73</sup> to support the communication,<sup>74</sup> via a communication network, of media between one of the first and second storage and the other of the first and second storage for consumption of media, in the second home, using a second graphical user interface<sup>75</sup> displayed on the second display device and having a second look and feel,<sup>76</sup> the second user interface having at least one view comprising graphical representations of the one or more media channels supporting the communication and consumption of media;<sup>77</sup>

enable closed and secure communication of the one or more media channels to members of a user group, in a peer to peer manner,<sup>78</sup> from the first home to the second home;<sup>79</sup> and

the first graphical user interface and the second graphical user interface being substantially the same graphical user interface,<sup>80</sup> and the first look and feel and the second look and feel being substantially the same.<sup>81</sup>

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<sup>72</sup> See *id.* at, for example, page 4, line 19 to page 5, line 1.

<sup>73</sup> See *id.* at, for example, page 4, line 21 to page 5, line 1.

<sup>74</sup> See *id.* at, for example, page 5, lines 1-4.

<sup>75</sup> See *id.* at, for example, page 15, line 18 to page 18, line 10, page 18, line 11 to page 20, line 6, page 20, line 7 to page 24, line 9, page 28, line 6 to page 29, line 9, Figure 6, ref. 600, Figure 2A, ref. 200, Figure 2B, ref. 210, Figure 2C, ref. 220.

<sup>76</sup> See *id.* at, for example, page 7, lines 4-5.

<sup>77</sup> See *id.* at, for example, page 20, line 7 to page 24, line 9, Figure 2C, ref. 220.

<sup>78</sup> See *id.* at, for example, page 25, lines 6-8, page 26, lines 18-22, Figure 4, ref. 413.

<sup>79</sup> See *id.* at, for example, page 24, lines 12-14.

<sup>80</sup> See *id.* at, for example, page 5, lines 4-5.

<sup>81</sup> See *id.* at, for example, page 7, lines 10-11.

**GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**  
**(37 C.F.R. § 41.37(c)(1)(vi))**

- Claims 1-7, 9-19, 21-31, and 33-40 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 6,774,926 (“Ellis”) in view of U.S. 7,321,969 (“Schoen”) and U.S. 2004/0125789 (“Parker”).

**ARGUMENT**  
**(37 C.F.R. § 41.37(c)(1)(vii))**

All of the claims stand rejected as being obvious based on the combination of Ellis in view of Schoen and Parker. The Applicants explain below, however, that the Office Action fails to establish a *prima facie* case of obviousness with respect to the pending claims for a variety of reasons.

In order for a *prima facie* case of obviousness to be established, the Manual of Patent Examining Procedure (“MPEP”) states the following:

The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that “**rejections on obviousness cannot be sustained with mere conclusory statements**; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.”

*See* MPEP at § 2142, citing *In re Kahn*, 441 F.3d 977, 988, 78 U.S.P.Q.2d 1329, 1336 (Fed. Cir. 2006), and *KSR International Co. v. Teleflex Inc.*, 82 U.S.P.Q.2d at 1396 (quoting Federal Circuit statement with approval) (emphasis added).

Further, as specifically noted in the Manual of Patent Examining Procedure, “[t]o establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).” *See* MPEP at 2143.03 (emphasis added). Further, “[all words in a claim must be considered in

judging the patentability of that claim against the prior art.’ *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA).’’ *See id.* (emphasis added).

If a *prima facie* case of obviousness is not established, **the Applicants are under no obligation to submit evidence of nonobviousness:**

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. **If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.**

*See* MPEP at § 2142 (emphasis added).

Further, in *Ex parte Hiyamazi*, the Board of Patent Appeals and Interferences reversed a rejection based on a combination of references, stating, in part:

Under 35 USC § 103, where the Examiner has relied upon the teachings of several references, the test is whether or not the references viewed individually and collectively would have suggested the claimed invention to the person possessing ordinary skill in the art. Note *In re Kaslow*, 707 F.2d 1366, 107 USPQ 1089 (Fed.Cir. 1983). **It is to be noted, however, that citing references which merely indicate the isolated elements and/or features recited in the claims are known is not a sufficient basis for concluding that the combination of claimed references would have been obvious.** That is to say, there should be something in the prior art or a convincing line of reasoning in the answer suggesting the desirability of combining the claimed invention. Note *In re Deminski*, 796 F.2d 436, 230 USPQ 313 (Fed.Cir. 1986).

*Ex parte Hiyamazi*, 10 USPQ2d 1393, 1394 (Bd. Pat. App. & Interf. 1988) (emphasis added).

Additionally, “[i]f the examiner is able to render a claim obvious simply by saying it is so, neither the Board nor [the Federal Circuit] is capable of reviewing that determination. … If there is neither record evidence nor detailed examiner reasoning, the Board should not conclude that … claims are obvious.” *See In re Vaidyanathan*, Appeal 2009-1404 at pages 18-19 (Fed. Cir. May 19, 2010) (nonprecedential).

“[T]he Board cannot simply reach conclusions based on its own understanding or experience – or on its assessment of what would be basic knowledge or common sense. Rather,

the Board must point to **some concrete evidence in the record in support of these findings.**"

*See In re Zurko*, 258 F.3d 1379, 1386 (Fed. Cir. 2001) (emphasis added).

With those principles in mind, the Applicants now turn to the claim rejections in particular.

## **I. The Proposed Combination Of Ellis In View Of Schoen And Parker Does Not Render Claims 1-7, 9-19, 21-31, and 33-40 Unpatentable**

The Applicants turn to the rejection of claims 1-7, 9-19, 21-31, and 33-40 as being unpatentable over Ellis in view of Schoen and Parker.

### **A. Claim 1**

Claim 1 recites, in part, “[a] system supporting the communication and consumption of media using a common user interface, the system comprising: ... software resident in a first memory at the first home and a second memory at the second home, the software enabling a user at the first home to construct, at the first home, the one or more media channels from user selected and scheduled media content, the software also enabling closed and secure communication of the one or more media channels to members of a user group, in a peer to peer manner, from the first home to the second home.” The Applicants respectfully submit that the cited references do not describe, teach, or suggest all of these limitations.

#### **1. Constructing Media Channels**

With respect to claim 1, the Office Action asserts the following:

**Regarding to claim 1:** Fig.1 of Ellis illustrates **a system** [30] **supporting the communication and consumption of media using a common user interface** (i.e. a display screen 130 that may be displayed by an interactive television program guide is shown in FIG. 9), **the system comprising: ... software resident in a first memory at the first home** (i.e. The interactive television program guide may be implemented using software that runs locally on user television equipment 36 using a set-top box) **and a second memory at the second home** (i.e. An interactive television program guide may be implemented using software that runs locally on user equipment 34 using computer [78]) (**Ellis, col. 8 lines 51-61**), Fig. 11 of Ellis shows the program guide screen [156] as **the software enabling a user at the first home** (i.e. user interface of Set-top box) **to construct, at the first home** (i.e. user equipment [36]), **the one or more media channels from user**

**selected** (i.e. if user selects option [166] on Menu screen [156] may contain information on the top 100 personal television channels including Star rating and Ratings for top 100 personal TV channels.) **and scheduled media content** (i.e. user select option [162] may provide the user with an opportunity to view program schedule information for personal television channel programming.), (**Ellis, col. 10 line 34-col. 11 line 25**), ...

*See June 30, 2010 Office Action at pages 4-7 (emphasis in original).*

Initially, the Applicants respectfully note that the Office Action identifies **only** Ellis at column 8, lines 51-61 and col. 10, line 34 to col. 11, line 25 as disclosing these aspects of claim 1.

First, the portion of Ellis at column 8, lines 51-61, which is shown below in context and underlined, states the following:

Another approach involves using an interactive television program guide to access the schedule information. An interactive television program guide may be implemented using software that runs locally on user equipment 34 or may be implemented using a client-server architecture or distributed approach in which a program guide server process running on a server or servers is accessed by a client process running on client equipment. The interactive television program guide may be implemented on user television equipment 36. For example, the program guide may be implemented using a set-top box. The program guide may also be implemented on user computer equipment 38. For example, a web browser may be used to access an on-line program guide web site. Cellular telephone 42 may also be used to support a program guide. Program listings and (if desired) selectable options may be displayed on display 100 (FIG. 6). The user of cellular telephone 42 may interact with the displayed items using buttons on the telephone.

In the cited portion of Ellis shown above, Ellis discloses an “interactive television program guide” used to access “schedule information.” The “interactive television program guide” may be software that runs locally on user equipment such as a user television, set-top box, or computer, or may run on a server accessed by client equipment. Further, a cellular telephone may be used to support the program guide.

The cited portion of Ellis at column 8, lines 51-61, shown above, does not, however, describe, teach, or suggest a user “constructing” anything, let alone constructing one or more

“media channels.” This portion of Ellis also fails to describe, teach, or suggest anything regarding user selection of media content, user-scheduling of media content, and construction of such “media channels” using such user selected and scheduled media content.

Instead, the cited portion of Ellis at column 8, lines 51-61, simply describes an “interactive television program guide” that may be used to **access** schedule information. Therefore, the Applicants respectfully submit that the cited portion of Ellis at column 8, lines 51-61, does not describe, teach, or suggest at least “software resident in a first memory at the first home and a second memory at the second home, the software enabling a user at the first home to construct, at the first home, the one or more media channels from user selected and scheduled media content,” as recited in claim 1, for example.

The Applicants now turn to the cited portion of Ellis at column 10, line 34 to col. 11, line 25, beginning with the portion at column 10, lines 34-44, which recites:

The program guide may allow the user to access information using various selectable options. An illustrative menu screen 156 that may be displayed by the program guide is shown in FIG. 11. Option 158 may provide the user with an opportunity to view television program schedule information for traditional television channels. Option 160 may launch a web browser or other suitable software that allows the user to browse the Internet. Personal channels option 162 may provide the user with an opportunity to view program schedule information for personal television channel programming.

This cited portion of Ellis shown above simply discloses that an “interactive television program guide” may allow a user to **access** information for a number of “selectable options,” including an “option 158” that allows a user to **view** traditional television program schedule information, an “option 160” that may **launch** a web browser for browsing the Internet, and an “option 162” that allows a user to **view** schedule information for “personal television channel programming.” The cited portion does not even mention a user “constructing” anything, let alone one or more “media channels.” This portion of Ellis is also silent with respect to the user selecting media content or scheduling media content for use in constructing such “media channels.” Therefore, the Applicants respectfully submit that the cited portion of Ellis at column 10, lines 34-44, does not describe, teach, or suggest “software resident in a first memory at the

first home and a second memory at the second home, the software enabling a user at the first home to construct, at the first home, the one or more media channels from user selected and scheduled media content,” as recited in claim 1, for example.

The Applicants now turn to the portion of Ellis at column 10, lines 45-49, which recites:

An interactive advertisement 164 may be provided. If the user selects advertisement 164, the program guide may display information on the advertised product or may provide the user with options that allow the user to electronically order the advertised product.

This portion of Ellis discloses that an “interactive advertisement” may be provided, and that user selection of the advertisement may **display** information or provide user options. Again, however, this portion of Ellis is silent with regard to a user “constructing” anything, let alone one or more “media channels.” This portion of Ellis is also silent with respect to the user selecting media content or scheduling media content for use in constructing such “media channels.” Therefore, the Applicants respectfully submit that the cited portion of Ellis at column 10, lines 45-49, also does not describe, teach, or suggest “software resident in a first memory at the first home and a second memory at the second home, the software enabling a user at the first home to construct, at the first home, the one or more media channels from user selected and scheduled media content,” as recited in claim 1, for example.

Next, Ellis at column 10, lines 50-60, states the following:

If the user selects personal television channel showcase option 166, the program guide may display a screen such as personal channel showcase screen 168 of FIG. 12. Showcase screen 168 may contain information on the top 100 personal television channels. Ratings for the top 100 personal television channels may be obtained by monitoring which personal television channel programs are most often viewed. The monitoring process may involve logging requests to the servers on which the personal television programs are stored or may involve monitoring requests from the viewer's location.

In the portion shown above, Ellis discloses that the user may select an “option 166,” which may cause the “[interactive television] program guide” to **display** a screen such as “personal channel showcase screen 168” that may contain information on the “top 100 personal

television channels.” This cited passage from Ellis further explains that the ratings for the “top 100 personal television channels” may be determined by **monitoring** which “personal television channel programs” are most often viewed, and that “monitoring” may involve **logging** requests to servers or from viewer’s locations. The Applicants respectfully submit, however, that this cited portion of Ellis fails to disclose a user “constructing” anything, let alone constructing one or more “media channels.” The cited portion of Ellis at column 10, lines 50-60, also does not disclose a user selecting media content or scheduling media content for use in constructing such “media channels.” The Applicants respectfully submit, therefore, that the portion of Ellis at column 10, lines 50-60, does not describe, teach, or suggest “software resident in a first memory at the first home and a second memory at the second home, the software enabling a user at the first home to construct, at the first home, the one or more media channels from user selected and scheduled media content,” as recited in claim 1, for example.

The Applicants now turn to the portion of Ellis at col. 10, line 61 to col. 11, line 6, which states the following:

Personal television program information that is displayed on screen 168 and any other suitable display screens may contain star ratings 170 (indicating a critic’s opinion of a program). Certain recommendations may also be made by the provider of screen 168 or by a critic. For example, a region of screen 168 such as our recommendations region 172 may be used to showcase recommended programming. Programming may also be grouped by category (e.g., all programming related to sports or to family issues, etc.) A user may scroll through the listings provided in such regions, as indicated by arrows 174. Reviews of certain personal television channel programming may be obtained by selecting reviews option 176.

This cited portion of Ellis explains that “personal television program information” **displayed** on a suitable “display screen” may contain “star ratings” that indicate a critic’s opinion of the program, and that a region of the “display screen” may be a “recommendations region” used to showcase recommended programming. Programming may be grouped in a “region” by category, a user may **scroll** through program listings provided in such “regions,” and a user may **select** a “reviews option” to obtain reviews of “personal television channel programming.” The Applicants respectfully submit, however, that this portion of Ellis again fails to disclose a user

“constructing” anything, let alone constructing one or more “media channels.” The portion of Ellis at column 10, line 61 to column 11, line 6 also does not describe, teach, or suggest a user selecting media content or scheduling media content for use in constructing such “media channels.” The Applicants respectfully submit, therefore, that the cited portion of Ellis at column 10, line 61 to column 11, line 6 does not describe, teach, or suggest “software resident in a first memory at the first home and a second memory at the second home, the software enabling a user at the first home to construct, at the first home, the one or more media channels from user selected and scheduled media content,” as recited in claim 1, for example.

The Applicants now address Ellis at column 11, lines 7-13, which recites the following:

Selectable links may be associated with the listed personal television programs. For example, links 177 may be provided. When links 177 are selected, the program guide may launch a web browser and direct the user to an associated web site or may launch a chat application to provide the user with an opportunity to join a chat related to a particular program, etc.

Ellis explains in the passage that selectable “links” may be associated with “personal television programs,” and that **selection** of such “links” may cause a web browser to be launched. The web browser may bring the user to a web site associated with the “personal television program.” Alternately, the **selection** of such “links” may **launch** a chat application so that the user can join a chat related to a program. The “selection” is directed to “links” to web sites/web pages. The Applicants respectfully submit that this portion of Ellis fails to make any mention of a user “constructing” anything, let alone constructing one or more “media channels.” The portion of Ellis at column 11, lines 7-13, does not describe, teach, or suggest a user selecting media content or scheduling media content for use in constructing such “media channels.” The Applicants respectfully submit, therefore, that the cited portion of Ellis at column 11, lines 7-13, does not describe, teach, or suggest “software resident in a first memory at the first home and a second memory at the second home, the software enabling a user at the first home to construct, at the first home, the one or more media channels from user selected and scheduled media content,” as recited in claim 1, for example.

Finally, Ellis at column 11, lines 14-25, states the following:

If the user selects personal channels option 162 of FIG. 11, the program guide may display a screen of program listings that are all for personal television channel programs, as shown in FIG. 13. Screen 178 of FIG. 13 may include call letter or station identification information 180. Personal television channel description information 182 that describes each personal television channel may also be included. In addition, screen 178 may contain information 184 on the title of the current program on each channel and description information 186 for each of these programs. Arrows 188 indicate that the user may scroll to view other channels of interest.

The passage from Ellis reproduced above discloses that by **selecting** an “option 162,” a user may be **shown** a screen **listing** all “personal television programs,” including information such as “call letter” or “station identification” information, information describing each “personal television channel” along with the title of the current program on each “personal television channel” and “description information” for each program. Ellis also teaches that a user may **scroll** to view other channels of interest. The Applicants respectfully submit, however, that the cited passage of Ellis shown above once again fails to make any mention of a user “constructing” anything, let alone constructing one or more “media channels.” This passage from Ellis, specifically selected by the Office, also does not describe, teach, or suggest a user selecting media content or scheduling media content for use in constructing such “media channels.” Therefore, the Applicants respectfully submit that Ellis at column 11, lines 14-25, also does not describe, teach, or suggest “software resident in a first memory at the first home and a second memory at the second home, the software enabling a user at the first home to construct, at the first home, the one or more media channels from user selected and scheduled media content,” as recited in claim 1, for example.

As shown above, the Applicants have reviewed all portions of Ellis relied on by the Office Action as allegedly disclosing “software resident in a first memory at the first home and a second memory at the second home, the software enabling a user at the first home to construct, at the first home, the one or more media channels from user selected and scheduled media content,” as recited in claim 1, for example, and have demonstrated that, contrary to the assertions in the Office Action, these portions of Ellis do not describe, teach, or suggest all of the limitations of

claim 1 that the Office Action asserts they do. Accordingly, for at least these reasons, the Office Action has committed clear error, and failed to establish a *prima facie* case of obviousness with respect to claim 1 and the claims that depend therefrom.

The Applicants, again, respectfully note that the Office Action cites only Ellis, but not Schoen and/or Parker with respect to these limitations. Indeed, the Office Action has not established that any of the cited references describe, teach, or suggest these limitations of claim 1.

The Applicants respectfully reiterate that “[t]he examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.”

## 2. Closed And Secure Communication

Claim 1 also recites, in part, “the software also enabling closed and secure communication of the one or more media channels to members of a user group, in a peer to peer manner, from the first home to the second home.”

The Office Action states that “Ellis is unclear with respect to ‘**the software also enabling closed and secure communication of the one or more media channels to members of a user group, in a peer to peer manner, from the first home to the second home**’.” *See* June 30, 2010 Office Action at page 7 (emphasis in original).

The Applicants respectfully submit that Ellis is more than “unclear,” Ellis simply does not describe, teach, or suggest these limitations of claim 1.

Nevertheless, the Office Action mistakenly relies upon Schoen to overcome the acknowledged deficiency of Ellis by asserting the following:

Schoen teaches the local instant messaging secure public key infrastructure proxies 22a and 22b are preferably implemented as software applications that are executed by one or more processing devices in the instant messaging device as the **software enabling closed and secure communication** (i.e. Virtual private networks (VPN) are known which use a public key infrastructure (PKI) to identify participants in the VPN to establish secure communications) (**Schoen, col. 2 lines 30-38 of the one or more media channels to members of a user group** (i.e. the instant

message exchanged in a buddy lists. The secure instant messaging group policy certificate defines a plurality of different instant messaging groups, each identified by an instant messaging group identifier) (**Schoen, col. 4 lines 8-21**), **in a peer to peer manner, from the first home to the second home**; (Fig. 1 of Schoen illustrates the instant messaging system 10 includes an instant messaging server 12. The instant messaging server 12 is in operative communication with a plurality of instant messaging devices as PDA, Set-top box, computers etc... **in a peer to peer manner**. For purposes of discussion, one of the instant messaging devices will be referred to as an instant messaging originator 14 which will be described as initiating an instant message while another instant messaging device 16 will be referred to as instant message recipient, although it will be recognized that either device may operate to send or received instant messages) (**Schoen, col. 6 lines 1-65**).

*See id.* at pages 7-8 (emphasis in original).

The Applicants respectfully submit, however, that these statements in the Office Action represent clear errors in reasoning and analysis. “If the examiner is able to render a claim obvious simply by saying it is so, neither the Board nor [the Federal Circuit] is capable of reviewing that determination. ... If there is neither record evidence nor detailed examiner reasoning, the Board should not conclude that ... claims are obvious.” *See In re Vaidyanathan*, Appeal 2009-1404 at pages 18-19 (Fed. Cir. May 19, 2010) (nonprecedential).

“[T]he Board cannot simply reach conclusions based on its own understanding or experience – or on its assessment of what would be basic knowledge or common sense. Rather, the Board must point to **some concrete evidence in the record in support of these findings**.” *See In re Zurko*, 258 F.3d 1379, 1386 (Fed. Cir. 2001) (emphasis added).

The Office Action fails to provide “concrete evidence” to support its conclusory statements regarding “peer-to-peer” reproduced above. The term “peer to peer” is not present anywhere in the cited portions of Schoen, or anywhere else in the text or figures of Schoen. In support for its assertion that Schoen teaches this aspect of claim 1, the Office Action recites language from Schoen, but fails to provide any explanation of how and why the text copied from Schoen, which does not mention the phrase “peer to peer” teaches “peer to peer” communication, as claimed. Instead, the Office merely repeats language from claim 1, inserts pieces of text from

the cited portion of Schoen, and adds a citation to a portion of Schoen. The Applicants respectfully submit that Schoen does not describe, teach, or suggest “peer to peer,” as claimed. Moreover, the Office Action has failed to provide an “explicit analysis” as required by Federal Circuit case law to show how and why the cited portions of Schoen teach what the Office Action asserts.

Further, the Office Action does not assert that Parker provides any teaching of “peer to peer” communication (the Office Action acknowledges that Ellis does not disclose this aspect of claim 1). Thus, because Ellis does not disclose this aspect of claim 1, as acknowledged by the Office Action, Schoen also does not disclose this aspect of claim 1, and the Office does not assert that Parker discloses this aspect of claim 1, the Applicants respectfully submit that the Office Action has failed to establish a *prima facie* case of obviousness with respect to claim 1 and the claims that depend therefrom.

#### **B. Claim 14**

Independent claim 14 recites, in part, “software resident in memory of the set top box circuitry at the first home and in memory of the personal computer at the second home, the software enabling a user at the first home to construct, at the first home, the one or more media channels from user selected and scheduled media content, the software also enabling closed and secure communication of the one or more media channels to members of a user group, in a peer to peer manner, from the first home to the second home.”

The Office Action rejects claim 14 by stating “[r]egarding to claim 14: recites the features similar to those of claim 1.” *See* June 30, 2010 Office Action at page 13. The Applicants demonstrate above that the Office Action fails to establish a *prima facie* case of obviousness with respect to claim 1. For at least the reasons discussed above with respect to claim 1, the Applicants respectfully submit that the Office Action has failed to establish a *prima facie* case of obviousness with respect to claim 14 and the claims that depend therefrom.

#### **C. Claim 25**

Claim 25 recites, in part, “enable a user, at the first home, to construct the one or more media channels, at the first home, from user selected and scheduled media content; ... enable

closed and secure communication of the one or more media channels to members of a user group, in a peer to peer manner, from the first home to the second home.”

The Office Action states that claim 25 “recites the features similar to those of claim 1. Therefore claim 25 is rejected for the same reason as discussed in claim 1.” *See* June 30, 2010 Office Action at page 13. The Applicants demonstrate above that the Office Action fails to establish a *prima facie* case of obviousness with respect to claim 1. For at least the reasons discussed above with respect to claim 1, the Applicants respectfully submit that the Office Action has failed to establish a *prima facie* case of obviousness with respect to claim 25 and the claims that depend therefrom.

## II. Obviousness Guidelines

Additionally, referring to the PTO’s published guidelines of October 10, 2007, with regard to the procedure to be followed by Examiners when making an obviousness rejection, the guidelines recite **seven rationales** supporting an obviousness rejection and give specific findings that **must be made** by an Examiner in order for the Examiner to use the rationale to support a finding of obviousness. These findings are **not optional and must be articulated by the Examiner for the rationale to apply**. The seven rationales are listed below.

- (A) Combining prior art elements according to known methods to yield predictable results;
- (B) Simple substitution of one known element for another to obtain predictable results;
- (C) Use of known technique to improve similar devices (methods, or products) in the same way;
- (D) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results;
- (E) “Obvious to try”—choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success;
- (F) Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art;

(G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention.

MPEP at § 2141.

If the current rejections are maintained, the Applicants respectfully request that the Examiner's Answer: 1) **identify the specific Rationale** (i.e., by specifically indicating one of A through G noted above) in the Guidelines that the Examiner is using to support the obviousness rejections so that the Applicants may more clearly address the Examiner's concerns, and 2) **state on the record** the **required** factual findings to support the Rationale that the Examiner has chosen.<sup>82</sup> Failure to specifically identify the specific rationale and state the required factual findings will seemingly be a tacit admission that the Examiner is unable to satisfy the **required** factual findings.

“It is important for Office personnel to recognize that when they do choose to formulate an obviousness rejection using one of the rationales suggested by the Supreme Court in KSR and discussed in the 2007 KSR Guidelines, they are to adhere to the instructions provided in the MPEP regarding the **necessary** factual findings.” *See* September 1, 2010 Examination Guidelines Update (emphasis added).

Further, it is “Office policy that appropriate factual findings are **required** in order to apply the enumerated rationales properly. If a rejection has been made that omits one of the required factual findings, and in response to the rejection a practitioner or inventor points out the omission, Office personnel **must** either withdraw the rejection, or repeat the rejection including all the required factual findings.” *See id.* (emphasis added).

Again, it is not enough to simply conclude that a claim is obvious while acknowledging that the cited references fail to disclose particular limitations. *See In re Vaidyanathan*, at pages 18-19. “[T]he Board cannot simply reach conclusions based on its own understanding or

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<sup>82</sup> Indeed, the Applicants respectfully request such an explicit analysis and associated factual findings for each and every rejection under 35 U.S.C. § 103 of any of the pending claims, as **required** by current PTO practice.

experience – or on its assessment of what would be basic knowledge or common sense. Rather, the Board must point to **some concrete evidence in the record in support of these findings.”** *See In re Zurko*, 258 F.3d 1379, 1386 (Fed. Cir. 2001) (emphasis added).

As explained above, the Office Action fails to provide any “concrete evidence” that describes, teaches, or suggests all of the limitations of the independent claims, as explained above. For at least these reasons, the Applicants respectfully submit that the Office Action fails to establish a *prima facie* case of unpatentability with respect to claims 1, 14, 25 and the claims depending therefrom.

### **III. CONCLUSION**

For at least the reasons discussed above, the Applicants respectfully request reconsideration of the claim rejections. The Board is respectfully requested to reverse the rejections of pending claims 1-7, 9-19, 21-31, and 33-40.

### **XII. PAYMENT OF FEES**

The Commissioner is authorized to charge any necessary fees, including the \$540 fee for this Appeal Brief, or credit any overpayment to Deposit Account 13-0017.

Respectfully submitted,

Dated: November 23, 2010

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**CLAIMS APPENDIX**  
**(37 C.F.R. § 41.37(c)(1)(viii))**

1. A system supporting the communication and consumption of media using a common user interface, the system comprising:

a television display in a first home;

a first storage for storing media, in the first home, having a first associated network address, the first storage communicatively coupled to the television display;

a first graphical user interface for display on the television display, the first graphical user interface having at least one view comprising graphical representations of one or more media channels supporting the communication and consumption of media, and having a first look and feel;

a personal computer monitor in a second home;

a second storage for storing media, in the second home, having a second associated network address, the second storage communicatively coupled to the personal computer monitor;

a second graphical user interface for display on the personal computer monitor, the second graphical user interface having at least one view comprising graphical representations of the one or more media channels supporting the communication and consumption of media, and having a second look and feel;

software resident in a first memory at the first home and a second memory at the second home, the software enabling a user at the first home to construct, at the first home, the one or more media channels from user selected and scheduled media content, the software also enabling closed and secure communication of the one or more media channels to members of a user group, in a peer to peer manner, from the first home to the second home;

software that receives a request that identifies one of the first and second associated network addresses, and responds by identifying the other of the first and second associated network addresses to support the communication via the communication network of media between the first storage and the second storage for consumption; and

the first graphical user interface and the second graphical user interface being substantially the same graphical user interface, the first look and feel and the second look and feel being substantially the same.

2. The system of claim 1 wherein the media comprises at least one of audio, a still image, video, and data.
3. The system of claim 1 wherein the media comprises real-time video.
4. The system of claim 1 wherein consumption comprises at least one of playing audio, displaying a still image, displaying video, and displaying data.
5. The system of claim 1 wherein the first and second associated network addresses are one of an Internet protocol (IP) address, a media access control (MAC) address, and an electronic serial number (ESN).
6. The system of claim 1 wherein the communication network comprises at least one of a cable infrastructure, a satellite network infrastructure, a digital subscriber line (DSL) infrastructure, an Internet infrastructure, an intranet infrastructure, a wired infrastructure, and a wireless infrastructure.
7. The system of claim 1 wherein the communication network is the Internet.
9. The system of claim 1 wherein at least a portion of the media available for consumption is user captured media.
10. The system of claim 1 wherein the first and second user interfaces comprise a view displaying information related to at least one media peripheral.
11. The system of claim 10 wherein the at least one media peripheral comprises at least one of a digital camera, a digital camcorder, an MP3 player, a home juke-box system, a multi-media personal digital assistant (PDA), and a mobile multi-media gateway device.

12. The system of claim 1 further comprising:

at least one media peripheral communicatively coupled to one of the first storage and the second storage;

a third graphical user interface for display on the at least one media peripheral, the third graphical user interface having at least one view comprising representations of one or more user created and scheduled media channels supporting the communication and consumption of media, and having a third look and feel; and

the first, second, and third graphical user interface being substantially the same graphical user interface, the first look and feel, the second look and feel, and the third look and feel being substantially the same.

13. The system of claim 12 wherein the at least one media peripheral comprises at least one of a digital camera, a digital camcorder, an MP3 player, a home juke-box system, a multi-media personal digital assistant (PDA), a mobile multi-media gateway device, and a personal computer (PC).

14. A system supporting the communication and consumption of media using a common graphical user interface, the system comprising:

a television display in a first home;

set top box circuitry, in the first home, communicatively coupled to the television display;

a first graphical user interface having at least one view comprising graphical representations of one or more media channels for display on the television display, and having a first look and feel;

a personal computer in a second home;

a second graphical user interface having at least one view comprising graphical representations of the one or more media channels for display on the personal computer, and having a second look and feel;

software resident in memory of the set top box circuitry at the first home and in memory of the personal computer at the second home, the software enabling a user at the first home to construct, at the first home, the one or more media channels from user selected and scheduled

media content, the software also enabling closed and secure communication of the one or more media channels to members of a user group, in a peer to peer manner, from the first home to the second home; and

the first graphical user interface and the second graphical user interface being substantially the same user interface, and the first look and feel and the second look and feel being substantially the same.

15. The system of claim 14 wherein the media comprises at least one of audio, a still image, video, and data.

16. The system of claim 14 wherein the media comprises real-time video.

17. The system of claim 14 wherein consumption comprises at least one of playing audio, displaying a still image, displaying video, and displaying data.

18. The system of claim 14 wherein the communication network comprises at least one of a cable infrastructure, a satellite network infrastructure, a digital subscriber line (DSL) infrastructure, an Internet infrastructure, an intranet infrastructure, a wired infrastructure, and a wireless infrastructure.

19. The system of claim 14 wherein the communication network is the Internet.

21. The system of claim 14 wherein at least a portion of the media available for consumption is user captured media.

22. The system of claim 14 wherein the first and second graphical user interfaces comprise a view displaying information related to at least one media peripheral.

23. The system of claim 14 further comprising:

at least one media peripheral communicatively coupled to one of the set top box circuitry and the personal computer;

a third graphical user interface for display on the at least one media peripheral, the third graphical user interface having at least one view comprising graphical representations of the one

or more media channels supporting the communication and consumption of media, and having a third look and feel; and

the first, second, and third graphical user interfaces being substantially the same graphical user interface, and the first look and feel, the second look and feel, and the third look and feel being substantially the same.

24. The system of claim 23 wherein the at least one media peripheral comprises at least one of a digital camera, a digital camcorder, an MP3 player, a home juke-box system, a multi-media personal digital assistant (PDA), a mobile multi-media gateway device, and a personal computer (PC).

25. One or more circuits for use in a system supporting the communication and consumption of media using a common user interface, the one or more circuits comprising:

at least one processor, in a first home, operably coupled to a display device and to a first storage for storing media in the first home, the first storage having a first associated network address, and communicatively coupled to a second storage for storing media, in a second home, the second storage having a second associated network address and being communicatively coupled to a second display device in the second home, the at least one processor operable to, at least:

cause display on the first display device of a first graphical user interface having at least one view comprising graphical representations of one or more media channels supporting the communication and consumption of media and having a first look and feel;

enable a user, at the first home, to construct the one or more media channels, at the first home, from user selected and scheduled media content;

communicate with software that receives a request that identifies one of the first and second associated network addresses, and responds by identifying the other of the first and second associated network addresses to support the communication, via a communication network, of media between one of the first and second storage and the other of the first and second storage for consumption of media, in the second home, using

a second graphical user interface displayed on the second display device and having a second look and feel, the second user interface having at least one view comprising graphical representations of the one or more media channels supporting the communication and consumption of media;

enable closed and secure communication of the one or more media channels to members of a user group, in a peer to peer manner, from the first home to the second home; and

the first graphical user interface and the second graphical user interface being substantially the same graphical user interface, and the first look and feel and the second look and feel being substantially the same.

26. The one or more circuits of claim 25, wherein the media comprises at least one of audio, a still image, video, and data.

27. The one or more circuits of claim 25 wherein the media comprises real-time video.

28. The one or more circuits of claim 25 wherein consumption comprises at least one of playing audio, displaying a still image, displaying video, and displaying data.

29. The one or more circuits of claim 25 wherein the first and second associated network addresses are one of an Internet protocol (IP) address, a media access control (MAC) address, and an electronic serial number (ESN).

30. The one or more circuits of claim 25 wherein the communication network comprises at least one of a cable infrastructure, a satellite network infrastructure, a digital subscriber line (DSL) infrastructure, an Internet infrastructure, an intranet infrastructure, a wired infrastructure, and a wireless infrastructure.

31. The one or more circuits of claim 25 wherein the communication network is the Internet.

33. The one or more circuits of claim 25 wherein at least a portion of the media available for consumption is user captured media.

34. The one or more circuits of claim 25 wherein the first and second graphical user interfaces comprise a view displaying information related to at least one media peripheral.

35. The one or more circuits of claim 34 wherein the at least one media peripheral comprises at least one of a digital camera, a digital camcorder, an MP3 player, a home juke-box system, a multi-media personal digital assistant (PDA), and a mobile multi-media gateway device.

36. The one or more circuits of claim 35 comprising:

at least one media peripheral communicatively coupled to one of the first storage and the second storage;

a third graphical user interface for display on the at least one media peripheral, the third graphical user interface having at least one view comprising graphical representations of the one or more media channels supporting the communication and consumption of media, and having a third look and feel; and

the first, second, and third graphical user interfaces being substantially the same graphical user interface, the first look and feel, the second look and feel, and the third look and feel being substantially the same.

37. The one or more circuits of claim 36 wherein the at least one media peripheral comprises at least one of a digital camera, a digital camcorder, an MP3 player, a home juke-box system, a multi-media personal digital assistant (PDA), a mobile multi-media gateway device, and a personal computer (PC).

38. The one or more circuits of claim 25 wherein the system comprises a set top box.

39. The one or more circuits of claim 25 wherein one or both of the first display device and the second display device comprises a television.

40. The one or more circuits of claim 25 wherein one or both of the first display device and the second display device comprise a computer monitor.

**EVIDENCE APPENDIX**  
**(37 C.F.R. § 41.37(c)(1)(ix))**

- (1) U.S. 6,774,926 (“Ellis”), entered into record by Examiner in January 21, 2010 Office Action.
- (2) U.S. 7,321,969 (“Schoen”), entered into record by Examiner in January 21, 2010 Office Action.
- (3) U.S. 2004/0125789 (“Parker”), entered into record by Examiner in January 21, 2010 Office Action.

**RELATED PROCEEDINGS APPENDIX**  
**(37 C.F.R. § 41.37(c)(1)(x))**

The Applicants are unaware of any decisions of related appeals at this time.